

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JULIAS HOLLEY,

Defendant-Appellant.

UNPUBLISHED

January 25, 2007

No. 264584

Wayne Circuit Court

LC No. 05-003549-01

Before: Zahra, P.J., and Cavanagh and Schuette, JJ.

SCHUETTE, J. (*dissenting*).

I respectfully dissent from the majority opinion of my very distinguished colleagues, Judges Cavanagh and Zahra.

The issue on appeal is whether the statutory language of MCL 750.483a(1)(b) permits a defendant to be convicted of interfering with a crime report if the defendant was found not guilty of the underlying crime. MCL 750.483a(1)(b) provides that a person may not “[p]revent or attempt to prevent through the unlawful use of physical force another person from reporting a crime committed or attempted by another person.” The majority contends that defendant cannot be convicted of MCL 750.483a(1)(b) unless he was found guilty of committing or attempting to commit the underlying crime. I disagree.

Again, MCL 750.483a(1) states, in part, that “[a] person shall not . . . (b) [p]revent or attempt to prevent through the unlawful use of physical force another person from reporting a crime committed or attempted by another person.” The language of MCL 750.483a(1)(b) clearly prevents a person from interfering with the reporting of a crime committed or attempted by another person. There is nothing in MCL 750.483a(1)(b) that requires defendant be convicted of the underlying crime to be guilty of interfering with the reporting of that crime. The omission of language from a statutory provision should be considered purposeful. *People v Burton*, 252 Mich App 130, 138; 651 NW2d 143 (2002). MCL 750.483a(1)(b) is clear and unambiguous. Therefore, the statute should be enforced as written, and according to its plain meaning. *People v Chavis*, 468 Mich 84, 92; 658 NW2d 469 (2003).

Defendant argues that, because he was acquitted of the felonious assault charge, no crime occurred. However, I agree with the prosecution in that defendant’s acquittal on the felonious assault charge does not mean he did not commit the crime; rather, it only shows that the

prosecution failed to prove defendant's guilt beyond a reasonable doubt. *People v Ewing*, 435 Mich 443, 452; 458 NW2d 880 (1990).

I would affirm the trial court's decision.

/s/ Bill Schuette